

HOUSE BILL NO. 445

INTRODUCED BY D. GALLIK

A BILL FOR AN ACT ENTITLED: "AN ACT RAISING THE WHOLESALE ENERGY TRANSACTION TAX; CREATING A PUBLIC UTILITY CUSTOMER HIGH ELECTRICITY COST RELIEF STATE SPECIAL REVENUE ACCOUNT; APPROPRIATING REVENUE TO THE PUBLIC SERVICE COMMISSION TO OFFSET PROJECTED ELECTRICITY SUPPLY COST INCREASES FOR PUBLIC UTILITY CUSTOMERS; AMENDING SECTIONS 15-72-104 AND 15-72-106, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-72-104, MCA, is amended to read:

"15-72-104. Wholesale energy transaction tax -- rate of tax -- exemptions -- cost recovery. (1) (a)

Except as provided in subsection (3), a wholesale energy transaction tax is imposed upon electricity transmitted within the state as provided in this section. The tax is imposed at a rate of ~~0.015~~ 0.4153 cent per kilowatt hour of electricity transmitted by a transmission services provider in the state.

(b) For electricity produced in the state for delivery outside of the state, the taxpayer is the person owning or operating the electrical generation facility producing the electricity. The transmission services provider shall collect the tax from the person based upon the kilowatt hours introduced onto transmission lines from the electrical generation facility. The amount of kilowatt hours subject to tax must be reduced by 5% to compensate for transmission line losses.

(c) For electricity produced in the state for delivery within the state, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered to the distribution services provider. The taxpayer may apply for a refund for overpayment of taxes pursuant to 15-72-116.

(d) For electricity produced outside the state for delivery inside the state, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered to the distribution services provider.

(e) For electricity delivered to a distribution services provider that is a rural electric cooperative for delivery to purchasers that have opted for customer choice under the provisions of Title 69, chapter

1 8, part 3, the taxpayer is the distribution services provider. The transmission services provider shall collect
2 the tax based on the amount of kilowatt hours of electricity delivered to the distribution services provider
3 that is attributable to customers that have opted for customer choice.

4 (f) For electricity delivered to a distribution services provider that prior to May 2, 1999, was
5 owned by a public utility as defined in 69-3-101, the tax is imposed on the successor distribution services
6 provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours
7 of electricity delivered to the distribution services provider.

8 (2) (a) If more than one transmission services provider transmits electricity, the last transmission
9 services provider transmitting or delivering the electricity shall collect the tax.

10 (b) If the transmission services provider is an agency of the United States government, the
11 distribution services provider receiving the electricity shall self-assess the tax subject to the provisions of
12 this part.

13 (c) If an electrical generation facility located within the state produces electricity for sale inside
14 and outside the state, sales within the state are considered to have come from electricity produced within
15 the state for purposes of the tax imposed by this section.

16 (3) (a) Electricity transmitted through the state that is not produced or delivered in the state is
17 exempt from the tax imposed by this section.

18 (b) Electricity produced in the state by an agency of the of the United States government for
19 delivery outside of the state is exempt from the tax imposed by this section.

20 (c) Electricity delivered to a distribution services provider that is a municipal utility described in
21 69-8-103(5)(b) or a rural electric cooperative organized under the provisions of Title 35, chapter 18, is
22 exempt from the tax imposed by this section.

23 (d) Electricity delivered to a purchaser that receives its power directly from a transmission or
24 distribution facility owned by an entity of the United States government on or before May 2, 1997, or
25 electricity that is transmitted exclusively on transmission or distribution facilities owned by an entity of
26 the United States government on or before May 2, 1997, is exempt from the tax imposed by this section.

27 [(e) Electricity delivered by a distribution services provider to a customer with loads of 1,000
28 kilowatts or greater that was first served by a public utility after December 31, 1996, is exempt from the
29 tax imposed by this section, provided that the customer purchases the electricity pursuant to a contract
30 or contracts that establish the purchase price or prices of electricity. The exemption allowed by this

1 subsection (3)(e) does not apply to electricity purchased under a renewal or extension of an existing
2 contract or existing contracts.]

3 (4) A distribution services provider is allowed to recover the tax imposed by this section and the
4 administrative costs to comply with this part in its rates. (Bracketed language terminates January 1,
5 2003--sec. 40, Ch. 556, L. 1999.)"

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7 **Section 2.** Section 15-72-106, MCA, is amended to read:

8 **"15-72-106. Collection of wholesale energy transaction tax -- disposition of revenue.** (1) A
9 transmission services provider shall collect the tax imposed under 15-72-104 from the taxpayer and pay
10 the tax collected to the department. If the transmission services provider collects a tax in excess of the
11 tax imposed by 15-72-104, both the tax and the excess must be remitted to the department.

12 (2) A self-assessing distribution services provider is subject to the provisions of this part.

13 (3) ~~The wholesale energy transaction tax collected under this part must be deposited in the general~~
14 ~~fund.~~ Of the total amount of the wholesale energy transaction tax collected under this part for each
15 biennium, \$96,428,000 must be deposited into the public utility customer high electricity cost relief state
16 special revenue account established in [section 3] with the remainder deposited in the general fund."

17

18 **NEW SECTION. Section 3. Public utility customer high electricity cost relief state special revenue**
19 **account -- revenue allocated -- rules.** (1) There is a public utility customer high electricity cost relief state
20 special revenue account within the state special revenue fund established in 17-2-102.

21 (2) Revenue derived from the wholesale energy transaction tax pursuant to 15-72-106 must be
22 deposited into this account.

23 (3) The revenue received under this section must be used, to the extent possible, to offset high
24 electricity supply costs incurred after June 30, 2002, for small customers of a public utility that has
25 submitted a transition plan pursuant to parts 1 through 5 of this chapter on or before [the effective date
26 of this act].

27 (4) The commission shall promulgate rules for determining the appropriate mechanism that, to the
28 extent possible, offsets high electricity supply costs. The commission's rules must include the following:

29 (a) the offset, within the constraints of the appropriation, is the difference in the cost charged for
30 electricity supply before June 30, 2002, and the cost charged for electricity supply after June 30, 2002,

1 for small customers;

2 (b) the offset should be calculated based on the differential cost of electricity supply and not the
3 usage amount of each small customer;

4 (c) the commission shall devise the least costly method for offsetting high electricity costs for
5 small customers; and

6 (d) the offset must be reflected on each small customer's monthly bill.

7 (5) The funds deposited in the account under this section but not appropriated during the biennium
8 and money appropriated from the account but not expended during the biennium for the purposes
9 established in subsection (3) remains in the account.

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11 NEW SECTION. **Section 4. Appropriation.** There is appropriated \$96,428,000 in state special
12 revenue to the public service commission for the biennium beginning July 1, 2001. The amount spent from
13 the appropriation may not exceed an amount equal to the wholesale energy transition tax received in the
14 2003 biennium. The public service commission shall use the appropriation, to the extent possible and
15 within the limits of the appropriation, to offset projected increases for electric supply costs incurred after
16 June 30, 2002, for small customers of a public utility that has submitted a transition plan pursuant to Title
17 69, chapter 8, parts 1 through 5, on or before [the effective date of this act]. The governor shall include
18 an appropriation of \$96,428,000 in the executive budget submitted to the 58th legislature for the same
19 purpose.

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21 NEW SECTION. **Section 5. Codification instruction.** [Section 3] is intended to be codified as an
22 integral part of Title 69, chapter 8, part 4, and the provisions of Title 69, chapter 8, part 4, apply to
23 [section 3].

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25 NEW SECTION. **Section 6. Effective date.** [This act] is effective January 1, 2002.

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